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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,854	03/30/2004	Fidel Realyvasquez	CSI-2024	5603

7590
Jeffrey J. Hohenshell
710 Medtronic Parkway
Minneapolis, MN 55432

08/14/2007

EXAMINER

STEWART, ALVIN J

ART UNIT	PAPER NUMBER
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3738

MAIL DATE	DELIVERY MODE
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08/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/814,854

Applicant(s)

REALYVASQUEZ ET AL.

Examiner

Alvin J. Stewart

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-12,14-25 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,5-12 and 14-18 is/are allowed.
- 6) ☒ Claim(s) 19-25, 27 and 29-36 is/are rejected.
- 7) ☒ Claim(s) 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Arguments

Applicant's arguments filed July 30, 2007 have been fully considered but they are not persuasive.

The Examiner still believes that the broad claim interpretation is proper. For example, the Applicant's representative argue that prior art '680 does not include a pair of tubes and that reference '680 discloses a pair of walls and not tubes.

The examiner interpreted the word "tube" broadly. For example, the meaning of the word "tube" does not have to have a cylindrical shape. The examiner is interpreting the "tube", as a device, having a rectangular shape and hollow. Therefore, the walls of elements 687 and 686 can be interpreted as a tube. Additionally, see Fig. 32 to see the slots along the length of the tubes. In order to overcome the rejection the Applicant's representative has to enter new structure limitations.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-25, 27 and 29-36 are rejected under 35 U.S.C. 102 (b) as being anticipated by Williamson, IV et al US Patent 6,042,607.

Williamson, IV et al discloses a delivery apparatus comprising a delivery device (600) comprising a plurality of tube pairs (see opening between walls 688 & 692 in one side of element 680) arranged to support the heart valve prosthesis and a plurality of self-closing clips (730)

Art Unit: 3738

having open and closed configurations (see Figs. 34A-34E), each clip slidably positioned in one tube of the tube pair. Wherein each tube having a slot (see opening parallel to wall 688) formed therethrough, each slot extending the entire length of a respective tube and configured to allow at least a portion of a respective clip to be ejected therethrough (see Fig. 32).

Regarding claim 20, see element 704 as the plunger.

Regarding claim 21, see Fig. 34B disclosing parallel ejection.

Regarding claim 27, Williamson, IV et al discloses a heart valve prosthesis (19, 20 & 11) having a curved member (19) and a skirt (11) extending therefrom and a plurality of self-closing clips (730) penetrating the curved member (see Figs. 12-16) and ejecting all the clips simultaneously to penetrate in the heart (see Figs. 12-14).

Regarding claim 29, the Examiner has interpreted the partial ring as follow: element 19 forms a partial ring because the implant is not completely installed. The implant forms a partial ring when element 19 is staple to the wall and it will form a complete ring when the heart valve is connected to element 19. In order to overcome the rejection the Applicant's representative has to describe that the partial ring has a C-shape form or something alike.

Regarding claim 30, Williamson, IV et al discloses a heart valve capable of being extended over the mitral valve posterior leaflet. The Applicant has not disclosed that the mitral valve leaflet is not resected. In order to overcome the rejection the Applicant's representative has to state that the skirt extends over the no-resected mitral valve posterior leaflet in order to clarify the

Regarding claim 32, elements 25 & 28 are rigid compare to the sewing cuff.

Allowable Subject Matter

Claims 1-3, 5-12 and 14-18 are allowed.

Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Stewart whose telephone number is 571-272-4760. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and (571) 273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-4760.

A. Stewart
ALVIN J. STEWART
PRIMARY EXAMINER
Art Unit 3738

August 7, 2007.